

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOEY TORREY,

Plaintiff,

No. CIV S-05-0388 LKK DAD P

vs.

FEDERAL BUREAU OF
INVESTIGATION LAS VEGAS
NEVADA DIVISION, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action. By order filed May 5, 2005, plaintiff was granted thirty days to pay the filing fee or apply for leave to proceed in forma pauperis. Plaintiff was also granted thirty days to file an amended complaint. Plaintiff has filed an in forma pauperis application and a motion for appointment of counsel.

Plaintiff's in forma pauperis application makes the showing required by 28 U.S.C. § 1915(a). Accordingly, plaintiff will be granted leave to proceed in forma pauperis. Pursuant to 28 U.S.C. §§ 1914(a) and 1915(b)(1), plaintiff is required to pay the statutory filing fee of \$250.00 for this action. An initial partial filing fee of \$2.16 will be assessed by this order. See 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account when funds are available and to forward

1 the initial partial filing fee to the Clerk of the Court. Thereafter, plaintiff will be obligated for
2 monthly payments of twenty percent of the preceding month's income credited to his prison trust
3 account. These payments must be forwarded by the appropriate agency to the Clerk of the Court
4 each time the amount in plaintiff's trust account exceeds \$10.00, until the filing fee is paid in
5 full. See 28 U.S.C. § 1915(b)(2).

6 Plaintiff is informed that the United States Supreme Court has ruled that district
7 courts lack authority to require attorneys to represent indigent prisoners in § 1983 cases. Mallard
8 v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the
9 court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell
10 v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36
11 (9th Cir. 1990). The court does not find exceptional circumstances in the present case. For these
12 reasons, plaintiff's motion for appointment of counsel will be denied. Plaintiff may, however,
13 request an extension of time to file an amended complaint.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff's May 12, 2005 motion for appointment of counsel is denied;
16 2. Plaintiff's May 13, 2005 application to proceed in forma pauperis is granted;

17 and

18 3. Plaintiff is obligated to pay the statutory filing fee of \$250.00 for this action.
19 Plaintiff is assessed an initial partial filing fee of \$2.16. All fees shall be collected and paid in
20 accordance with this court's order to the Director of the California Department of Corrections
21 filed concurrently herewith.

22 DATED: May 20, 2005.

23 
24 _____
25 DALE A. DROZD
26 UNITED STATES MAGISTRATE JUDGE

25 DAD:l3:bb
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